



UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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| In re | : | Case No. 81 B 12024 (BRL) |
| COMBE FILL CORPORATION, | : | NOTICE OF HEARING ON |
| | : | TRUSTEE'S APPLICATION |
| Debtor. | : | TO ABANDON LANDFILL |
| | : | <u>SITES AND RECORDS</u> |

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PLEASE TAKE NOTICE that a hearing will be held before the Honorable Burton R. Lifland, Bankruptcy Judge, in Room 234 of the United States Courthouse, Foley Square, New York, New York, on the 29th day of April, 1986, at 10:00 o'clock in the forenoon of that day, or as soon thereafter as counsel can be heard, on the Trustee's application to abandon (1) the Debtor's landfill site in Chester-Washington Townships, Morris County, New Jersey; (2) the Debtor's landfill site in Mount Olive Township, Morris County, New Jersey; and (3) all business and dumping records for each site, said records to be turned over to the United States Environmental Protection Agency.

PLEASE TAKE FURTHER NOTICE that a complete copy of the Trustee's application to abandon may be inspected at the office of the Clerk of the Bankruptcy Court, Room 230, United States Courthouse, Foley Square, New York, New York, during regular Court hours. Objections, if any, to the application must be filed with the Clerk of the Bankruptcy Court and the undersigned no later than April 24, 1986.

Dated: New York, New York
March 27, 1986

BRUCE D. SCHERLING, P.C.
Attorneys for Trustee
6 East 45th Street
New York, New York 10017
(212) 972-8100

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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| In re | : | Case No. 81 B 12024 (BRL) |
| COMBE FILL CORPORATION, | : | APPLICATION FOR ORDER |
| | : | AUTHORIZING TRUSTEE TO |
| Debtor. | : | ABANDON LANDFILL SITES |
| | : | <u>AND RECORDS</u> |

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TO THE HONORABLE BURTON R. LIFLAND, BANKRUPTCY JUDGE:

BRUCE D. SCHERLING, Trustee, by his attorneys,
BRUCE D. SCHERLING, P.C., as and for his application for an
Order authorizing the Trustee to abandon two landfill sites
owned by the Debtor, respectfully sets forth and alleges:

1. On October 19, 1981, applicant was appointed
Interim Trustee of Combe Fill Corp. ("Debtor") pursuant to
11 U.S.C. 15701(a), qualified, became Trustee on December 2,
1981 pursuant to 11 U.S.C. 702(d) and currently serves in that
capacity.

2. This application is submitted for an Order
authorizing applicant to abandon two landfill sites in Morris
County, New Jersey, and the accounting and dumping records for
each pursuant to 11 U.S.C. 554, said records to be turned over
to the United States Environmental Protection Agency ("EPA")
with the consent of the New Jersey Department of Environmental
Protection ("DEP").

3. The Debtor was a corporation wholly owned and operated by Combustion Equipment Associates, Inc. ("CEA"), formerly a debtor in a Chapter 11 case before this Court (Cases Nos. 80 B 11757-11759) and now doing business as CARTER DAY INDUSTRIES. The Debtor operated two landfill sites in Morris County, New Jersey, one which straddled Washington and Chester Townships (Combe Fill South) and one in Mt. Olive Township (Combe Fill North). It is those two sites and their respective accounting and dumping records that the Trustee seeks to abandon.

Trustee's Authority to Abandon - Quanta Issues Mooted.

4. The issues raised and decided by the Supreme Court in the Quanta case, 106 S.Ct 755 (1986), were fully mooted in this case by the Court-approved settlement herein between the Trustee and the New Jersey Department of Environmental Protection. By order dated January 17, 1984, this Court approved and confirmed a settlement pursuant to which the State of New Jersey Department of Environmental Protection accepted \$50,000 in full and final settlement of all closure claims.

INCONSEQUENTIAL VALUE OF SITES

Combe Fill South

5. The Combe Fill South site has been decertified

by the New Jersey Public Utilities Commission and can therefore no longer be operated by the Trustee or any prospective buyer under the landfill license issued to the Debtor. The trustee has realized the only possible value of said site to the estate through three sales of real property. The Trustee has determined that no further sales are possible and that the site has no possible commercial uses.

Combe Fill North

6. The Combe Fill North site in Mt. Olive, New Jersey, has from the outset of the estate had no value which could be realized by the Trustee. As the site was fully filled, there was no acreage which could be sold to adjoining property owners or other interested parties. The Trustee has determined that the site has no value or possible commercial uses.

7. The retention of the two sites and their records is burdensome to the estate.

8. The EPA has advised the Trustee that it will take custody of the debtor's records with the consent of the NJDEP.

9. No prior application for the relief sought has been made to this or any other Court.

WHEREFORE, applicant respectfully requests that this application for an Order authorizing the Trustee to abandon the

Combe Fill South and Combe Fill North landfill sites and the accounting and dumping records for each be granted in all respects, and for such other and further relief as to this Court may seem just and proper.

Dated: New York, New York
March 27, 1986

BS
Bruce D. Scherling, Trustee

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